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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

14 **XINGFEI LUO,**

15 Petitioner,

16 v.

17 **THE PEOPLE OF THE STATE OF**
18 **CALIFORNIA,**

19 Respondent.
20

8:22-cv-01640-MEMF-KES

**MOTION FOR AN EXTENSION
OF TIME TO FILE RESPONSE TO
THE AMENDED PETITION FOR
WRIT OF HABEAS CORPUS AND
SUPPORTING DECLARATION**

Judge: The Honorable Karen E.
Scott

Action Filed: 9/06/2022

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22 Respondent respectfully requests an extension of time to file a response to the
23 Amended Petition for Writ of Habeas Corpus. The response is presently due
24 October 2, 2023. Respondent requests that the time to respond be extended thirty
25 days to and including November 1, 2023, for the reasons provided in the
26 accompanying Declaration.
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1 Dated: September 25, 2023

Respectfully submitted,

2 ROB BONTA
3 Attorney General of California
4 CHRISTOPHER P. BEESLEY
Supervising Deputy Attorney General

5
6 /s/ Michael D. Butera
MICHAEL D. BUTERA
7 Deputy Attorney General
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DECLARATION OF MICHAEL D. BUTERA

Michael D. Butera, declares:

I am the Deputy Attorney General assigned to prepare the response in this matter, which is due October 2, 2023.

Luo filed an Amended Petition on June 22, 2023. (Doc. 33.) Since that time, I have received one sua sponte extension from this Court on July 27, 2023 (moving the response date to August 1, 2023) and one requested sixty-two day extension. I respectfully request an additional thirty-day extension due to the size and complexity of Luo's Petition and my responsibilities in other cases.

Since my last request, I have completed the Respondent's Briefs in *People v. Salas* (E080179), *People v. Williams* (D080892), *People v. Coleman* (G061950), *People v. Johnson* (D081705), and *People v. Mares* (E080611) as well as a federal habeas corpus Answer in *Scott v. Cates* (3:22-CV-01101). In addition, I have prepared for and presented oral argument in *People v. Burns* (D080779).

The Amended Petition raises thirty-five claims for relief, some of which contain multiple sub-claims. These claims cover a wide array of legal issues, including prosecutorial misconduct and *Brady* allegations, a number of ineffective assistance claims against both trial and appellate counsel, alleged speedy-trial violations, claims concerning unlawful First Amendment limitations, claims of evidentiary and instructional error, and challenges to the sufficiency of evidence supporting Luo's convictions. I have thoroughly reviewed each of these claims and have been working diligently in order to familiarize myself with the applicable state and federal case law related to these many claims. I am presently working on my analysis in response to these arguments, and this case is my top priority. However, I will be unable to complete a draft response and secure supervisory review in the time I have remaining under the current due date.

For the foregoing reasons, I respectfully request the time to respond be extended thirty days to and including November 1, 2023. I believe this extension of

1 time will provide sufficient time to complete a response to the instant Petition that
2 will be helpful to this Court in its resolution of the issues.

3 I declare under penalty of perjury under the laws of the United States of
4 America that the foregoing is true and correct.

5 /s/ Michael D. Butera
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CERTIFICATE OF SERVICE

Case Name: **Luo v. The People of the State
of California**

No. **8:22-cv-01640-MEMF-KES**

I hereby certify that on September 25, 2023, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

MOTION FOR AN EXTENSION OF TIME TO FILE RESPONSE TO THE AMENDED PETITION FOR WRIT OF HABEAS CORPUS AND SUPPORTING DECLARATION

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On September 25, 2023, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Xingfei Luo
P.O. Box 4886
El Monte, CA 91734
Petitioner in Pro Se

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 25, 2023, at San Diego, California.

K. Yeoun
Declarant

/s/ K. Yeoun
Signature